

1 (Whereupon, off the record from
2 2:37 p.m. until 2:51 p.m.)

3 JUDGE SIPPEL: Okay, we're on the
4 record. Mr. Titus you're on.

5 THE WITNESS: Okay, I'm here.

6 BY MS. LANCASTER:

7 Q Mr. Titus, on page -- I believe
8 we're on page 43 of EB Exhibit 4. I think we
9 briefly touched on this earlier about you
10 being required to take a polygraph examination
11 but refusing to answer two questions on it
12 unless -- you wanted the questions restated in
13 a different way and I believe you said you
14 recall doing that.

15 Do you recall that testimony first
16 of all?

17 MR. LYON: I don't recall this.

18 THE WITNESS: Yes, yes I do.

19 MS. LANCASTER: Okay.

20 BY MS. LANCASTER:

21 Q And read paragraph -- the paragraph
22 where it says violation one and let me know if

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1 that accurately describes that situation?

2 A I will do my best --

3 JUDGE SIPPEL: Wait just a minute,
4 wait just a minute.

5 MR. LYON: Your Honor, at this time
6 I'm going to object to questioning the witness
7 regarding an area moved and limiting for
8 questions involving the witnesses sexual
9 behavior that doesn't involve children.

10 As I look through the violation
11 notices they have a recurring theme that his
12 therapist wanted him to disclose who he was
13 having sex with, not the children, but what
14 adult sexual relationships he was having and
15 Mr. Titus refused to do so.

16 I think he has the right to do
17 that. I think that it is a matter of his
18 privacy and the fact that back in 1996 it may
19 have been considered deviant to be gay or to
20 have promiscuous relationships I think the
21 Supreme Court has made it pretty clear now
22 that you have a constitutional right to engage

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1 in homosexual behavior.

2 MS. LANCASTER: Your Honor, I'm
3 going to object to the speech nature of his
4 objection.

5 JUDGE SIPPEL: Well it's not a
6 speech --

7 MR. LYON: I think I'm entitled to
8 make an objection without being interrupted.
9 I'm sorry.

10 JUDGE SIPPEL: Yes, go ahead
11 continue and let's --

12 MR. LYON: But I will wrap it up.
13 I think Your Honor, that it is non-probative
14 as to whether he's likely to offend against
15 children and quite honestly I think we're
16 wasting a lot of time here.

17 MS. LANCASTER: Your Honor, if I
18 may respond. First of all, during these
19 violations he was --

20 JUDGE SIPPEL: He's right though
21 isn't he?

22 MS. LANCASTER: No sir, he's not

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1 right.

2 JUDGE SIPPEL: He's not?

3 MS. LANCASTER: No sir.

4 JUDGE SIPPEL: You don't have a
5 right to -- he has no right to having
6 consensual sex with adults?

7 MS. LANCASTER: That's not the
8 issue.

9 JUDGE SIPPEL: Well that's what he
10 said.

11 MS. LANCASTER: But that's not the
12 issue, that's the way he would like to frame
13 the issue in this situation.

14 JUDGE SIPPEL: I'm asking you what
15 he said. I'm trying to get at least an
16 agreement to understand you agree with his
17 premise.

18 His premise is that the Supreme
19 Court now permits adults, consenting adults to
20 have homosexual acts together.

21 MR. KNOWLES-KELLETT: We don't
22 dispute that, Your Honor.

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1 JUDGE SIPPEL: Thank you, now where
2 do you disagree. Where is he disagreeing?

3 MR. KNOWLES-KELLETT: Okay, with
4 our right to go into Mr. Titus' sexual
5 practices. Dr. Allmon reviews him at length
6 in his report.

7 JUDGE SIPPEL: Yes, but we're not
8 doctors.

9 MR. KNOWLES-KELLETT: Well we're
10 allowed to question the basis for his report
11 or allowed to question the underlying facts.
12 And we're allowed to look into whether he's
13 having safe sex and how he chooses his sexual
14 partners. That's all it is during this
15 hearing.

16 MR. LYON: Correct me if I'm wrong
17 Your Honor, but my understanding is we're
18 trying to determine whether Mr. Titus would
19 likely use an amateur radio license to attract
20 children with whom he would offend. Not
21 whether he's having safe sex, not whether we
22 agree with is promiscuity, not whether we

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1 agree with his homosexuality or his other
2 sexual practices.

3 I guess we can leave for tomorrow
4 whether it's appropriate to ask Dr. Allmon
5 whether his adult sexual relationships are a
6 problem as to the likelihood to offend the
7 children. But I don't think we're getting
8 anywhere with where we're going right now.

9 MS. LANCASTER: Let me speak
10 please. Your Honor, first of all in this
11 particular question we're asking whether or
12 not Mr. Titus complied with the Court ordered
13 therapy. And he was ordered to take a
14 polygraph. This is not since he's been, you
15 know this is not anything recent. This is
16 back when he was being supervised and he
17 refused to answer whether or not he was being
18 honest.

19 That has a whole lot to do with
20 this treatment, the effectiveness of his
21 treatment, whether his -- mister --

22 JUDGE SIPPEL: Well what are you

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1 trying to establish. That he wasn't truthful
2 in connection with the polygraph, or that he
3 wasn't cooperative?

4 MS. LANCASTER: Both, he is not
5 only not cooperative, he is not truthful and -
6 -

7 JUDGE SIPPEL: Well what did he
8 tell the doctor. What did he tell - whoever
9 was taking his lie detector test what did he
10 ever tell then that wasn't true?

11 MS. LANCASTER: At this point he's
12 refusing to answer the questions. He'll
13 saying he'll only answer the -- and there's
14 lots of the summaries in the written
15 documentation about his sexual treatment is
16 that his treatment was ineffective because he
17 either lies about it or he hides it by
18 omission and there's no evidence that he's
19 really fully had an effective treatment plan
20 and that certainly goes to the heart of
21 whether or not he is -- still remains a threat
22 period.

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1 JUDGE SIPPEL: Well wait a minute,
2 are you trying to establish as a fact to this
3 witness that whether or not he had a
4 successful treatment. Is that the idea?

5 MS. LANCASTER: In part.

6 JUDGE SIPPEL: Well I don't know if
7 he's qualified to make that kind of a finding.
8 We know what his conduct was with respect to
9 cooperation, lack of cooperation with the
10 therapist. He's very straightforward on that.

11 MS. LANCASTER: Well I don't think
12 he's been as straightforward on that as he
13 could have.

14 JUDGE SIPPEL: On that, I said on
15 that.

16 MS. LANCASTER: But in this
17 particular question, although Mr. Lyon would
18 like to have this question concern his adult
19 sexual conduct this question actually concerns
20 whether or not he complied with treatment and
21 whether or not he refused to honestly answer
22 a question that he was asked as a part of his

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1 treatment. And he didn't --

2 JUDGE SIPPEL: What is that
3 question?

4 MR. LYON: Have you been open and
5 honest with your therapist regarding your
6 sexual activity.

7 MS. LANCASTER: And he refused to
8 answer that unless it was rephrase to say have
9 you lied to Dr. McCarthy about the things you
10 have talked about. Not the same question at
11 all.

12 JUDGE SIPPEL: And from what -- all
13 right, from that you're going to -- this is
14 what -- and this is what transpired. Let me
15 ask the witness.

16 Mr. Titus, is this what transpired?

17 THE WITNESS: Your Honor, I'd like
18 to try to answer the best that I can. But
19 this is -- you know these violation are
20 already 15 years ago.

21 JUDGE SIPPEL: I understand that.
22 But is it true to the best of your

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1 recollection were you asked the question or
2 something to the effect of that, open and
3 honest with your therapist regarding sexual
4 activity and you refused to answer because you
5 wanted it rephrased?

6 THE WITNESS: Your Honor, I believe
7 that's correct but I can't say clearly about
8 that.

9 JUDGE SIPPEL: All right.

10 THE WITNESS: You know what I can
11 say is the violation I had was for the
12 pornography and I never had -- there's no
13 sustained allegations from my probation time.

14 MS. LANCASTER: Your Honor, that
15 sorry.

16 JUDGE SIPPEL: Yes, let him finish.

17 MS. LANCASTER: Sorry, I thought he
18 was through.

19 JUDGE SIPPEL: Go ahead.

20 THE WITNESS: The Judge, you know
21 these issues were raised and even these issues
22 in this violation report were raised in front

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1 of the Judge in Court in Benton County and the
2 Judge did not side with the State.

3 So, there was no violation because
4 he found me not guilty so we're beating a dead
5 horse.

6 JUDGE SIPPEL: Well that's --
7 you're trying to be Judge and jury on this Mr.
8 Titus and just take it as far as you're being
9 asked.

10 THE WITNESS: Okay.

11 JUDGE SIPPEL: If he can't
12 recollect something and there's no -- it's a
13 business document that appears to be in order
14 I don't see where that's going to be a
15 difficulty in terms of making a finding.

16 MS. LANCASTER: Well Your Honor, I
17 --

18 JUDGE SIPPEL: But he hasn't quite
19 got -- I don't know -- first of all I'm going
20 to -- I do think that there is a point here to
21 be made and that is that we're only talking
22 about juvenile conduct and I don't know what

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1 the relevance of adult conduct is going to be
2 to juvenile conduct. Sexual preoccupation?

3 MS. LANCASTER: Your Honor, that's
4 certainly one -- yes sir, that's certainly one
5 --

6 JUDGE SIPPEL: Is that going to be
7 okay, go ahead.

8 MS. LANCASTER: It has a whole lot
9 to do with whether he had effective sex
10 therapy treatment and you know whether he
11 cooperated with it and whether he is truthful
12 as part of it all of which were conditions and
13 the testimony so far has been that he will lie
14 to get out of trouble. And that he did not,
15 was not cooperative and that he is trying to
16 turn it around so that he can answer what he
17 wants to answer as opposed to what he was
18 asked.

19 And in this -- there's also
20 documentation in the file that promiscuous
21 behavior is considered deviant behavior and
22 has an effect on the effectiveness of any sex

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1 therapy treatment.

2 Now he's a sex offender and you're
3 trying to make a determination whether or not
4 he still presents a threat. And the fact that
5 he's failed every one of his sex therapy
6 treatment sessions is certainly relevant to
7 that and he in effect has had very little
8 effective treatment and he's still out there
9 on the street and he has a radio and he can
10 talk to whomever he wants on the radio
11 including children.

12 That's why it's, you know -- this
13 point alone is not going to prove the entire
14 case that we have. But it's all of these
15 points about the types of things he has done
16 are cumulative.

17 JUDGE SIPPEL: All right, okay.

18 MR. LYON: Your Honor --

19 JUDGE SIPPEL: I hear -- go ahead.

20 MR. LYON: Counsel is grossly
21 mischaracterized the record. Counsel has not
22 chosen to present a psychologist. Counsel is

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1 making the assertions based on ten, 12 year
2 old documents as to what sexual promiscuity
3 may or may not constitute. Hasn't seen fit to
4 present expert testimony on this. I don't
5 think that you can make findings that sexual
6 promiscuity is deviant conduct.

7 And certainly in light of the
8 Lawrence Decision I don't think you can make
9 findings that he's had a thousand homosexual
10 relationships has any relation to whether he's
11 likely to have a sexual relationship with a
12 child.

13 JUDGE SIPPPEL: Well --

14 MS. LANCASTER: But that's not the
15 question here.

16 JUDGE SIPPPEL: You don't have to go
17 any further. You've made your point and her
18 point is that sexual deviant conduct across
19 the board puts you in a category where it sort
20 of tips the scales that you're going to be a
21 threat to adolescents in the community.

22 I'm paraphrasing here. So she's

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1 not saying, she's not looking to prove that
2 there's been violations of the law with
3 respect to consenting adult conduct. She's
4 simply saying that you get into this category
5 of sexual deviant conduct that it goes to her
6 burden of proof which is that he's a threat.
7 So this is all a perspective.

8 MR. LYON: I understand that that's
9 the Bureau's case. They haven't chosen to
10 present testimony from a witness upon whom you
11 can rely on --

12 JUDGE SIPPEL: Well that's for
13 finding and you're arguing the quality of the
14 evidence. I'm just trying to get to whether
15 or not she's got a right to make her case the
16 way she's doing it.

17 That's all I can decide today. And
18 all I'm saying -- well I'm trying to get this
19 thing to the point where we're moving off the
20 page. Why don't we ask the witness if there's
21 anything in this page, page 43 that he
22 disagrees with.

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1 MS. LANCASTER: I would be happy to
2 ask him that, Your Honor.

3 JUDGE SIPPEL: And then if he
4 disagrees with it let's ask him why.

5 MS. LANCASTER: Okay, I'd be happy
6 to do that way.

7 JUDGE SIPPEL: Will that get you
8 where you want to go?

9 MS. LANCASTER: I don't know, we'll
10 see.

11 JUDGE SIPPEL: Do you understand
12 what I'm asking you Mr. Titus?

13 THE WITNESS: Yes.

14 JUDGE SIPPEL: Is there anything on
15 this violation one, violation two, violation
16 three, is there anything in there that's of a
17 factual nature that you disagree with. In
18 other words you say did not happen or it's
19 wrong?

20 THE WITNESS: Let me read through
21 it real quick.

22 JUDGE SIPPEL: Go ahead, take your

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1 time. The violation number one -- are you
2 almost there Mr. Titus?

3 THE WITNESS: I'm on the last.
4 paragraph.

5 JUDGE SIPPEL: I'm just talking
6 about -- I'm only talking about violation one.
7 One paragraph.

8 THE WITNESS: Well I'm --

9 JUDGE SIPPEL: We're going to take
10 it one paragraph at a time.

11 THE WITNESS: Yes, that one I'm
12 done with them. I'm not disputing anything
13 about this point.

14 JUDGE SIPPEL: All right, well what
15 about violation two, the second paragraph?

16 THE WITNESS: I'm not going to
17 dispute anything there either, Your Honor.

18 JUDGE SIPPEL: And what about
19 violation three, the third paragraph?

20 THE WITNESS: I'm almost finished
21 with that one.

22 JUDGE SIPPEL: Go ahead.

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1 THE WITNESS: Yes, from my
2 recollection I'm not going to dispute any of
3 these three violations at this point.

4 JUDGE SIPPEL: All right, fine
5 you've said all you need to say on it. Now,
6 with respect to what's on page 44 why don't
7 you read - let's take it paragraph by
8 paragraph.

9 You tell me if there's any sentence
10 or phrase in there that you disagree with as
11 far as having factually occurred. Mr. Titus'
12 adjustment to supervision --

13 MR. LYON: Your Honor, I note that
14 this is the therapists or the evaluate - this
15 is an evaluation by Mr. Harris. I don't know
16 that it purports to state facts.

17 JUDGE SIPPEL: Okay, I'm sorry. If
18 this is an evaluation. But let's just take it
19 one sentence at a time. Mr. Titus' adjustment
20 to supervision continues to be extremely poor
21 as of August 1996. Would you agree with that
22 statement?

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1 THE WITNESS: Yes, I do.

2 JUDGE SIPPEL: Okay, how about the
3 next one, resistant to all aspects of
4 treatment, supervision?

5 THE WITNESS: I would not say
6 resistant to all aspects. But I'm a resistant
7 person I would say.

8 JUDGE SIPPEL: All right, Mr. Titus
9 has gone great lengths to hide, conceal his
10 personal activities and associations?

11 THE WITNESS: That's true.

12 JUDGE SIPPEL: Freely admits he
13 wants to keep his community corrections
14 officer from knowing anything about any
15 portion of his life?

16 THE WITNESS: That's not exactly
17 true.

18 JUDGE SIPPEL: And the portion of
19 your life that you did want to protect was
20 what you were doing as a consenting adult. Is
21 that -- I mean that's the long and short of
22 it.

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1 THE WITNESS: Yes, that's correct.

2 JUDGE SIPPEL: And then he's very -
3 - Mr. Titus is adamant that he refused to
4 discuss associate platonic or sexual or any of
5 his activities. Well that's -- you don't have
6 any problem with that statement do you?

7 THE WITNESS: That's correct, I
8 don't.

9 JUDGE SIPPEL: Okay, and I don't
10 want to be pushing you on this now but I think
11 that we have a general feel for where you're
12 going on this.

13 Refuses to accept that as a sex
14 offender he cannot keep secrets. Don't spend
15 a lot of time on that sentence I don't know
16 what it means really.

17 MS. LANCASTER: I'm sorry Your
18 Honor, my interpretation of that is he can't
19 not tell about his sexual activities.

20 JUDGE SIPPEL: Yes, but cannot
21 keep secrets is a far cry from that. That's
22 way too broad. Cannot keep to himself the

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1 activities that are relevant is something
2 else. But he cannot keep secrets, that's an
3 awfully broad one.

4 More so than any other sex offenses
5 forced out of secrecy. That's more argument.
6 Mr. Titus' continuous secretive behavior is
7 justifiably concerning.

8 What would you say to that?

9 THE WITNESS: I would say that is
10 his opinion. The current facts state
11 something different than his opinion, that's
12 all I can say about it.

13 JUDGE SIPPET: Typically the first
14 rule of sexual deviancy treatment is the
15 expectation requirement the client will not
16 keep secrets or force a secretive environment.

17 Well that's really a technical
18 statement isn't it. Do you have a response to
19 that at all?

20 THE WITNESS: No I don't.

21 JUDGE SIPPET: You've been involved
22 in this stuff. You've had your own counsel

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1 and advice from doctors. Is this -- without
2 identifying who the doctor is do you have a
3 general understanding as to what your problem
4 is. When you have this problem is it because
5 of secretive conduct or?

6 THE WITNESS: Well I made bad
7 choices when I was young and I decided that I
8 was going to stop making those bad choices and
9 make age appropriate legal choices. That's
10 what it really boils down to.

11 MS. LANCASTER: That's not
12 responsive, Your Honor.

13 JUDGE SIPPEL: I know it's not, but
14 then again the question really not -- this is
15 a bad one to do this with because these are
16 all general, their general conclusions drawn
17 really in a professional way. The witness is
18 -- I don't feel qualified to ask them I don't
19 think either.

20 Okay, I'm finished with that. I
21 don't think it's going to make any sense to go
22 any further with it. Is there anything more

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1 you need now with this witness on this point?

2 MS. LANCASTER: I will move on.

3 JUDGE SIPPEL: Okay, all right
4 thank you.

5 BY MS. LANCASTER:

6 Q I forgot to ask you something Mr.
7 Titus back when I was first getting your
8 family history. It's my understanding that
9 when you were 6 years old that a babysitter,
10 your babysitter had anal intercourse with you.
11 Is that correct?

12 A I don't recall that.

13 Q Do you recall saying not only -- do
14 you not recall saying that you liked it and
15 consented to it?

16 A I do not recall that when I was 6
17 years old. No, absolutely not.

18 Q And do you deny that you were ever
19 sexually abused?

20 A I do deny that, yes.

21 Q I'm going back and trying to pick
22 up things that I may have forgotten to ask you

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1 and one of the things I noted that I didn't
2 ask you about is the Sex Offender Treatment
3 summary that was done by Julie Aff and Michael
4 Morris. Remember us discussing that
5 particular summary?

6 A Yes I do.

7 Q Do you recall that you refused to
8 sign for your copy of that document?

9 MR. LYON: Objection, relevance.

10 JUDGE SIPPEL: Well you can answer
11 the question. I think it's -- I agree, I
12 question the relevance of it. But what the
13 heck. Do you remember signing it. You know
14 signing -- well go ahead, tell me what your
15 answer is?

16 THE WITNESS: My recollection is
17 that I refused to sign it because I read it
18 and I didn't agree with it.

19 MS. LANCASTER: Okay.

20 BY MS. LANCASTER:

21 Q Going back to the Mercer Island
22 incident. When confronted by the police on

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1 Mercer Island did you first tell them that you
2 were meeting a HAM operator that was a friend
3 of yours?

4 A I did not. I read that in the
5 report, but that's an inaccurate statement.

6 Q Hold on, let me find that. What
7 page, 39.

8 JUDGE SIPPEL: Are you still on
9 Exhibit 4?

10 MS. LANCASTER: Yes sir, everything
11 pretty much is Exhibit 4. One moment please.

12 BY MS. LANCASTER:

13 Q Did you then tell them that you had
14 met Charles over an internet chat room and had
15 set up a meeting to meet him on the corner?

16 A You already asked me that and my
17 answer was no.

18 Q Okay, do you recall exactly what
19 you did tell them?

20 A I told them -- in regards to what.
21 I mean --

22 Q As to who you were meeting there

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